### STATE OF NEVADA

# DEPARTMENT OF BUSINESS AND INDUSTRY DIVISION OF MORTGAGE LENDING

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In re:

NICHOLAS PAUL LINDSEY,

Respondent.

## **FINAL ORDER**

The State of Nevada, Department of Business and Industry, Division of Mortgage Lending Division (hereinafter, the "DIVISION"), having served the Respondent, NICHOLAS PAUL LINDSEY, hereinafter, "RESPONDENT") on 12/1/2008, with its Notice of Intent to Impose Fine and Notice of Intent to Revoke Mortgage Agent License and Notice of Right to Request Hearing, attached hereto as Exhibit "1" and incorporated herein by reference, which notified RESPONDENT that a final order would issue in this matter unless, within twenty (20) days of entry and receipt of said Order, RESPONDENT requested a hearing to contest the charges against it, with said request to be made in writing, and;

Said Order having been sent to RESPONDENT via certified mail and regular mail and received by RESPONDENT on 12/3/2008, and;

RESPONDENT having failed to request a hearing in this matter, and good cause appearing:

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IT IS HEREBY ORDERED that, pursuant to NRS 645B.670(3) and NRS 645B.750,
RESPONDENT'S mortgage agent license in the State of Nevada is REVOKED.

IT IS FURTHER ORDERED that, pursuant to NRS 645B.670, RESPONDENT will be subject to an administrative fine in the amount of FORTY THOUSAND DOLLARS (\$40,000.00).

IT IS FURTHER ORDERED that the sum of said administrative fine be paid in full within thirty (30) days of entry of the instant Order.

Dated this \_15th\_ day of January, 2009.

STATE OF NEVADA

DEPARTMENT OF BUSINESS AND INDUSTRY

DIVISION OF MORTGAGE LENDING

# **EXHIBIT "1"**

# STATE OF NEVADA **DEPARTMENT OF BUSINESS AND INDUSTRY DIVISION OF MORTGAGE LENDING**

In re:

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NICHOLAS PAUL LINDSEY,

Respondent.

# NOTICE OF INTENT TO IMPOSE FINE

The licensing and regulation of mortgage brokers and mortgage agents in the State of Nevada is governed by Chapter 645B of the Nevada Revised Statutes (hereinafter, "NRS") and Chapter 645B of the Nevada Administrative Code (hereinafter, "NAC"). The State of Nevada, Department of Business and Industry, Division of Mortgage Lending (hereinafter, the "DIVISION") has the general duty to exercise supervision and control over mortgage brokers and mortgage brokering activity. See, NRS 645B.060 (1), NRS 645B.690 and NRS 645B.670. Pursuant to that authority, the DIVISION makes the following Findings of Fact, Conclusions of Law, and Order as follows:

# **FACTUAL ALLEGATIONS**

- Respondent, NICHOLAS PAUL LINDSEY (hereinafter, "RESPONDENT") was a 1. licensed mortgage agent operating within the State of Nevada. RESPONDENT initially registered with the DIVISION as a mortgage agent on March 14, 2005. The DIVISION currently classifies RESPONDENT'S license as inactive.
- 2. On August 28, 2008 the DIVISION received a Complaint from an individual. Ms. Patricia Horvath (hereinafter, "HORVATH"), who alleged the following:

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- a. about April 2008, HORVATH sought the assistance RESPONDENT to obtain a refinance on her home at 53 Oakmarsh Dr., Henderson, Nevada 89074.
- b. On or about June 2008, RESPONDENT advised HORVATH he had found a lender for her refinance but that she needed to bring in a check for \$39,384.00 in order to reduce the Loan to Value ("LTV") ratio to 90% or less. On July 2, 2008, HORVATH brought RESPONDENT a cashier's check for \$39,384.00 made out to Home Solutions, a business entity registered to RESPONDENT
- On or about July 2008, the final documents for the refinance were signed C. but the refinance loan never closed and HORVATH'S current loan went in to default. On August 13, 2008, HORVATH requested RESPONDENT return the \$39,384.00. In fact, RESPONDENT failed to return the \$39,384.00 to Horvath.
- 3. Pursuant to NRS 645B.060, the DIVISION is charged with conducting "...such investigations as may be necessary to determine whether any person has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner." See, NRS 645B.060 (2)(c).
- 4. Pursuant to NRS 645B.610, the DIVISION is also charged with investigating "...each violation alleged in [a] complaint..." received by the DIVISION and "...shall determine from the investigation whether there is reasonable cause to believe that the [accused] committed the alleged violation..." See, NRS 645B.610 (1), (3).
- 5. After receiving HORVATH'S Complaint, the DIVISION interviewed RESPONDENT on September 3, 2008. During this interview, RESPONDENT admitted that he received \$39,387.42 from HORVATH and deposited the funds into his own business account. RESPONDENT stated he returned the \$39,387.42 to HORVATH and would provide a copy of the check. The DIVISION requested RESPONDENT provide a written statement regarding HORVATH'S allegations. RESPONDENT failed to provide a copy of the check, and also failed to provide a written statement regarding HORVATH'S allegations.

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- 6. The DIVISION'S last attempt to contact RESPONDENT occurred on September 19, 2008 by email, to which RESPONDENT failed to respond.
- 7. To date, despite repeated attempts, RESPONDENT has failed to communicate with the DIVISION in any way.
- Pursuant to NRS 645B.670 (3), "...for each violation committed by a mortgage 8. agent, the Commissioner may impose upon the mortgage agent an administrative fine of not more than \$10,000, may suspend, revoke or place conditions upon his license, or may do both, if the mortgage agent, whether or not acting as such... [I]s grossly negligent or incompetent in performing any act for which he is required to be licensed...; [H]as suppressed or withheld from a client any material facts, date or other information relating to any transaction...; [H]as knowingly made or caused to be made to the Commissioner any false representation of material fact ...; [H]as failed to account for or to remit any money of a client within a reasonable time after a request for an accounting or remittal; [H]as commingled the money or other property of a client with his own or has converted the money or property of others to his own use; [H]as engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice; [H]as violated any provision of Chapter 645B of Nevada Revised Statutes or Nevada Administrative Code or an order of the Commissioner.... See, NRS 645B.670 (3)(a), (c), (d), (f), (g), (h), and (j).
- 9. The DIVISION finds that RESPONDENT'S conduct, through questionable activities in connection with the HORVATH transaction described above, as well as his failure to respond to the DIVISION'S inquiries in connection with the above-referenced complaint, is evidence of multiple violations of NRS 645B.670.

## **VIOLATIONS OF LAW**

1. The DIVISION has determined that, through the above-described conduct, RESPONDENT has violated NRS 645B.670 (3)(a), (c), (d), (f), (g), (h), and (j).

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## ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that pursuant to NRS 645B.750, upon the timely filing of an application with the Division, RESPONDENT, shall be entitled to a hearing with regard to the contents of this Order. At that hearing, pursuant to NRS 645B.670 (3), the **DIVISION** will seek:

- a. To revoke RESPONDENT'S mortgage agent license for RESPONDENT'S multiple violations of NRS 645B.670;
  - b. The immediate surrender of RESPONDENT'S mortgage agent license; and
- c. The imposition of an administrative fine of \$40,000.00 for RESPONDENT'S violations of NRS Chapter 645B, as well as the Division's administrative costs and attorney's fees, if any, incurred herein, each to be proven at the hearing:

Should RESPONDENT not request a hearing within twenty (20) days of the receipt of this Order, the DIVISION will enter a Final Order in this matter.

IT IS FURTHER ORDERED that the sum of said administrative fine, costs and fees be paid in full within thirty (30) days of entry of the Final Order in this matter.

IT IS FURTHER ORDERED that, upon the DIVISION'S receipt of the sum of said administrative fine, costs and fees, this matter will be deemed concluded.

Dated this  $26^{7}$  day of November, 2008.

STATE OF NEVADA DEPARTMENT OF BUSINESS AND INDUSTRY DIVISION OF MORTGAGE LENDING

By: